

Updating the Conservation Authorities Act

ERO (Environmental Registry of Ontario) number	019-2646
Notice type	Bulletin
Act	Conservation Authorities Act, R.S.O. 1990
Posted by	Ministry of the Environment, Conservation and Parks
Bulletin posted	November 5, 2020
Last updated	November 5, 2020

This notice is for informational purposes only. There is no requirement to consult on this initiative on the Environmental Registry of Ontario. Learn more about the [types of notices \(/page/glossary#section-4\)](/page/glossary#section-4) on the registry.

Bulletin summary

We are amending the *Conservation Authorities Act* to improve transparency and consistency in conservation authority operations, strengthen municipal and provincial oversight and streamline conservation authority roles in permitting and land use planning.

Why consultation isn't required

Section 33 of the *Environmental Bill of Rights, 1993* (EBR) exempts proposals from the public consultation requirements under the *EBR (Environmental Bill of Rights)* if the proposal forms part of or gives effect to a budget or economic statement presented to the Legislative Assembly.

This includes:

1. a policy that forms part of a budget or economic statement presented to the Legislative Assembly; or
2. a bill, Act, regulation or instrument that gives effect to a budget or economic statement presented to the Legislative Assembly.

Background - conservation authorities

Conservation authorities are local public sector organizations established by the province through the *Conservation Authorities Act* on the petition of two or more municipalities. Conservation authority jurisdictions are based on a watershed scale and cross multiple municipal boundaries to address common resource management objectives, principally for the provincial and municipal governments as well as for the conservation authority itself.

The *Conservation Authorities Act* was established in 1946 to improve poor land, water and forestry practices that had led to drought, flooding, erosion, and deforestation as well as to create jobs following the war. Over time, conservation authority programs and services have expanded into many aspects of natural resource management including science and research, environmental education, protection of water quality, land use planning, and protection and conservation of natural heritage.

A conservation authority is comprised of a membership of municipal representatives appointed by the municipalities that formed or later joined the conservation authority.

There are currently 36 conservation authorities established in Ontario (31 in Southern Ontario and 5 in urbanized areas in the north) serving an area where 95% of Ontario's population live.

Background - 2019 amendments to the *Conservation Authorities Act*

Ontario made a commitment in its [Made-in-Ontario Environment Plan](https://www.ontario.ca/page/made-in-ontario-environment-plan) (<https://www.ontario.ca/page/made-in-ontario-environment-plan>) to ensure that conservation authorities focus and deliver on their core mandate.

In June 2019, the *More Homes, More Choice Act, 2019* (Bill 108) amended the *Conservation Authorities Act* to:

- Define the four areas of core mandatory programs and services offered by conservation authorities and allowing for the programs and services that make up each area to be further defined by regulation. The four areas include:
 1. Programs and services related to the risk of natural hazards
 2. Programs and services related to the conservation and management of lands owned or controlled by the conservation authority
 3. Programs and services related to the conservation authority's duties, functions and responsibilities as a source protection authority under

the *Clean Water Act, 2006*

4. Programs and services related to the conservation authority's duties, functions and responsibilities under an Act prescribed by the regulations

- Allow other programs and services outside of the four core areas to be prescribed as mandatory programs and services.
- Require, after a specified date, that municipal financing of a non-mandatory program and service can only continue, where the conservation authority has entered into a financing agreement with its participating municipalities.
- Establish a transition period and process for conservation authorities and municipalities to identify, through an inventory, which of their programs and services are mandatory and then to enter into agreements for the non-mandatory programs or services that are financed in whole or in part at the municipal level.
- Enable the minister to appoint an investigator to investigate or undertake an audit and report on a conservation authority.
- Clarify that the duty of conservation authority "board" members is to act with a view to furthering the objects of the conservation authority (i.e. (that is), the range of activities the conservation authority is allowed to undertake) .

These sections of the *Conservation Authorities Act* are currently un-proclaimed. We posted [a notice \(https://www.ebr.gov.on.ca/ERS-WEB-External/displaynoticecontent.do?noticeId=MTM3NjY5&statusId=MjA5ODI0&language=en\)](https://www.ebr.gov.on.ca/ERS-WEB-External/displaynoticecontent.do?noticeId=MTM3NjY5&statusId=MjA5ODI0&language=en) on the Environmental Registry of Ontario regarding these amendments on April 5, 2019 for 45 days.

Conservation Authorities Act Review

Over the past year and a half, we have further consulted on the core role of conservation authorities in preparing and protecting against the impacts of natural hazards, maintaining and managing conservation lands, and roles in drinking water source protection. We received feedback from conservation authorities and a diverse group of stakeholders, including municipalities, the agricultural and development sectors, environmental and conservation organizations, and landowners, on the appropriate role for conservation authorities.

Through these consultations we heard concerns that some conservation authorities have expanded their programs and services beyond their core mandate.

We recognize that conservation authorities play an important role in local resource management, including protecting and preserving significant conservation land. With the scope of conservation authorities' activities expanding over time, some participating municipalities of a conservation authority have expressed concern about the increases to their municipal levies that they are required to pay under the *Conservation Authorities Act* to finance their respective conservation authorities and the lack of direct control that participating municipalities may have over conservation authority budgets. Participating municipalities on average contribute over half of the conservation authority revenue through municipal levies. Most of the remainder comes from conservation authorities' self-generated revenue, with provincial funding averaging less than ten per cent.

Based on the feedback we received, the province is moving forward with a proposal to further define the core mandate of conservation authorities. These changes would improve the governance, oversight and accountability of conservation authorities, while respecting taxpayer dollars by giving municipalities more say over the conservation authority services they pay for.

We are proposing to streamline conservation authorities' permitting and land use planning review which is expected to increase accountability, consistency and transparency, which in turn will support growth, competitiveness, and job creation as communities plan for future growth.

We know that many conservation authorities provide valuable recreational and educational programs and services that are important to the local community, such as camping and outdoor education. These programs would continue, so long as they are funded through self-generated revenue or have support from the local municipality that funds them.

Improving the governance of conservation authorities and ensuring they are focused on their core mandate is also in line with Protecting People and Property: Ontario's Flooding Strategy, Ontario's first comprehensive plan to strengthening flood preparedness, response and recovery.

Summary of proposed changes

Improving transparency, consistency in operations and municipal/provincial oversight of conservation authorities

We are proposing amendments to the *Conservation Authorities Act* to improve consistency, transparency and municipal/provincial oversight of conservation authorities and their operations.

If passed, the amendments would:

- Revise the objects of conservation authorities (i.e., (that is), the range of activities conservation authorities are allowed to undertake) to reflect the three categories of programs and services that the conservation authority is currently authorized to deliver under the *Conservation Authorities Act* over the area over which it has jurisdiction:
 1. Core mandatory programs and services described above
 2. The programs and services which conservation authorities deliver on behalf of a municipality pursuant to a memorandum of understanding or agreement, and
 3. The programs and services that a conservation authority delivers to further the purposes of the *Conservation Authorities Act*
- Enable the minister to, by regulation, establish standards and requirements for the delivery of non-mandatory programs and services.
- Integrate the current power of a conservation authority to “cause research to be done” with the conservation authority’s current power to study and investigate the watershed in order to support the programs and services the conservation authority delivers.
- Remove the authority for conservation authorities to expropriate lands. Conservation authorities would have the ability to request either the Province or a municipality expropriate land.
- Require conservation authorities to follow generally accepted accounting principles.
- Require conservation authorities to make key documents publicly available online (e.g., (example), meeting agendas, meeting minutes, municipal member agreements, annual audits).
- Require conservation authorities to submit to the minister a copy of any agreement its participating municipalities have entered into on the number of members each participating municipality is entitled to appoint to a conservation authority.
- Remove the transition provision for conservation authorities to develop administrative by-laws.
- Following an investigation, if after reviewing the investigator’s report the minister is of the opinion that the conservation authority has failed or is likely to fail to comply with any provincial law, authorize the minister to issue a binding directive to the conservation authority, and/or, with the approval of the LGIC (Lieutenant Governor in Council), to appoint a temporary administrator to assume control of all of the conservation authority’s operations. Further, the minister would be authorized to issue binding directives to the administrator.
- Have all municipal levy appeals be heard by the Local Planning Appeal Tribunal (LPAT) – the *Conservation Authorities Act* currently provides

that certain levy appeals are heard by the LPAT (Local Planning Appeal Tribunal) and others by the Mining and Lands Tribunal.

- Require participating municipalities to appoint municipal councillors as conservation authority members and that municipally appointed members generally act on behalf of their municipalities. This proposal would repeal the un-proclaimed provision made in Bill 108 that members were to act with a view to furthering the objects of the conservation authority, and instead provide clarity for conservation authority member governance and enhanced municipal oversight over taxpayer dollars.
- Enable the minister to appoint a member to the conservation authority from the agricultural sector.
- Require that conservation authority chairs and vice-chairs rotate every two years between different participating municipalities.
- Enable the minister to delegate some of their duties and powers under the *Conservation Authorities Act*, for example to a ministry official.
- Add a legal provision to the *Conservation Authorities Act* related to aboriginal and treaty rights under the Constitution. Such a non-derogation provision would recognize that nothing in the Act would abrogate or derogate from the existing aboriginal and treaty rights recognized and affirmed by section 35 of the Constitution.

Streamlining conservation authority roles and responsibilities in permitting and land use planning

We have also heard concerns from some stakeholders about the role of conservation authorities in issuing permits under the *Conservation Authorities Act* and as a public body with the power to comment on and challenge decisions under the Planning Act. Stakeholders have questioned whether conservation authorities' current roles are consistent and supportive of timely decisions that are necessary in the land use planning and approval process, and some stakeholders consider these roles need to be streamlined as they impose unnecessary costs and/or delays for businesses and property owners.

We are therefore proposing changes to the *Conservation Authorities Act* to streamline the role of conservation authorities in permitting and land use planning as well to ensure timely decisions are made in relation to permits required under section 28 of the Act.

If passed, the proposed amendments would:

- Authorize the Minister of Natural Resources and Forestry to issue an order to take over and decide an application for a permit under section 28 of the *Conservation Authorities Act* in place of the conservation

authority (i.e. (that is) before the conservation authority has made a decision on the application).

- Allow an applicant, within 30 days of a conservation authority issuing a permit, with or without conditions, or denying a permit, to request the minister to review the conservation authority's decision.
- Where the minister has taken over a permit application or is reviewing a permit decision by a conservation authority, allow an applicant to appeal directly to LPAT (Local Planning Appeal Tribunal) where the minister fails to make a decision within 90 days.
- In addition to the provision to seek a minister's review, provide the applicant with the ability to appeal a permit decision to LPAT (Local Planning Appeal Tribunal) within 90 days after the conservation authority has made a decision.
- Where a permit is cancelled, allow the permit holder to appeal the cancellation to LPAT (Local Planning Appeal Tribunal) within 90 days.
- Allow applicants to appeal directly to LPAT (Local Planning Appeal Tribunal) where a conservation authority fails to make a decision on section 28 permit applications within 120 days.
- Provide permit applicants with the ability to appeal permit fees charged by a conservation authority to LPAT (Local Planning Appeal Tribunal).
- Amend the un-proclaimed warrantless entry provisions to change the circumstances when an entry to land may be exercised by a conservation authority officer so that such circumstances are similar to entry powers now in effect in section 28 of the Act.
- Remove the un-proclaimed provisions for conservation authorities to be able to issue stop work orders and retain the current enforcement tools, such as laying charges and potential court injunctions.

The Schedule also proposes an amendment to the *Planning Act* to add conservation authorities to subsection 1 (2) of the *Planning Act*. This amendment, if passed, would make conservation authorities part of the Province's one window planning approach. This would mean that a conservation authority could not, as a public body under that Act, appeal a decision to LPAT (Local Planning Appeal Tribunal) or become a party to an appeal before LPAT (Local Planning Appeal Tribunal). Municipalities and the Province can continue to work with conservation authorities and rely on their advice and support where they want it during an LPAT (Local Planning Appeal Tribunal) appeal.

Later this fall, we intend to further consult on regulatory proposals (mandatory programs and services, section 28 natural hazards, section 29 conservation authority lands, agreements and transition) under the *Conservation Authorities*

Supporting materials

Related links

Conservation Authorities Act

(<https://www.ontario.ca/laws/statute/90c27>)

More Homes, More Choice Act, 2019 (Bill 108)

(<https://www.ola.org/en/legislative-business/bills/parliament-42/session-1/bill-108>)

Made-in-Ontario Environment (<https://www.ontario.ca/page/made-in-ontario-environment-plan>).

Online consultation with stakeholders.

(<https://www.ontario.ca/page/consultation-ontario-conservation-authorities>)

View materials in person

Important notice: Due to the ongoing COVID-19 pandemic, viewing supporting materials in person is not available at this time.

Please reach out to the Contact listed in this notice to see if alternate arrangements can be made.

Connect with us

Contact

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